

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 668 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

INDRAVADAN @ INDU RAISINGH CHHARA

Versus

COMMISSIONER OF POLICE

Appearance:

MR RC KODEKAR for Petitioner

MR RM CHAUHAN AGP for the Respondents.

GOVERNMENT PLEADER for Respondent No. 2, 3

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 24/07/98

ORAL JUDGEMENT

The petitioner, who is detained by an order dated 12-1-98 passed by the Police Commissioner, Ahmedabad City, under Section 3 (1) of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as "the PASA Act"), has filed this petition under Article 226 of the Constitution of India challenging the

legality and validity of the order of detention.

In the grounds of detention supplied to the petitioner, it is alleged that the petitioner is carrying on illegal activities of stealing suit-cases of the persons travelling in the ST buses in the area of Madhavpura of Ahmedabad city and Gandhinagar for which two criminal cases under sections 379 and 114 have been registered against the petitioner which are pending for disposal in the competent court. Besides these criminal cases, reliance is also placed on the statements of four witnesses of the incidents alleged to have taken place on 28-11-97 and 9-12-97 in which the concerned witnesses were dragged from their houses to the public road and were beaten. So far as the first incident is concerned, the witness refused to keep the stolen bags in his house and so far as the second incident is concerned the witness refused to part with Rs.8000/- by taking security of gold-chain offered by the petitioner. On both the occasions people gathered at the places of incident and they started running helter-skelter when the petitioner rushed towards the crowd with the result the atmosphere of fear and terror was created.

On the basis of the aforesaid material, the detaining authority recorded a finding that the petitioner is a dangerous person within the meaning of Section 2(c) of the PASA Act and with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, passed the impugned order of detention against the petitioner, which has been challenged by the petitioner by way of this petition.

This petition is required to be allowed on the ground that assuming for the sake of arguments that the allegations made against the petitioner are true, the same at best can be treated as breaches of law and order and not public order. I have gone through the statements of the witnesses which are stereo-type. Reading the same, it clearly establishes without any manner of doubt that the statements are quite general and vague in nature and the alleged incidents are against individuals and the general public is not concerned at all and, therefore, it cannot be contended that the petitioner is involved in committing breaches of public order. Even if the allegations made are believed to be true, the same at best can be termed as breach of law and order and in no circumstances the same can be termed as breach of public order. Consequently, therefore, the satisfaction arrived at by the detaining authority that the petitioner is a dangerous person is also visited. The order of

detention is therefore liable to be quashed and set aside.

In the result, this petition is allowed. The In the result, this petition is allowed. The order of detention dated 12-1-98 is quashed and set aside. The detenu Indravadan @ Indu Raising Chhara is ordered to be released forthwith if not required in connection with any other offence. Rule is made absolute accordingly with no order as to costs.
